



Senate

General Assembly

File No. 127

January Session, 2009

Substitute Senate Bill No. 962

Senate, March 19, 2009

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING WELLNESS INCENTIVES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2010*) (a) Any insurer, health
2 care center, hospital service corporation, medical service corporation,
3 fraternal benefit society or other entity that delivers, issues for
4 delivery, renews, amends or continues in this state a group health
5 insurance policy providing coverage of the type specified in
6 subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of the general
7 statutes shall offer a reasonably designed health behavior wellness,
8 maintenance or improvement program that allows for a reward, a
9 health spending account contribution, a reduction in premiums or
10 reduced medical, prescription drug or equipment copayment,
11 coinsurance or deductible, or a combination of these incentives, for
12 participation in such program.

13 (b) Any such incentive or reward shall not exceed twenty per cent of
14 the paid premiums and shall comply with all nondiscrimination
15 requirements under the Health Insurance Portability and

16 Accountability Act of 1996 (P.L. 104-191) (HIPAA), as amended from
17 time to time, or regulations adopted thereunder.

18 (c) The insured or enrollee shall provide evidence of participation in
19 such program to the insurer, health care center or other entity set forth
20 in subsection (a) of this section in a manner approved by the Insurance
21 Commissioner.

22 (d) The Insurance Commissioner, in consultation with the
23 Commissioner of Public Health, shall adopt regulations, in accordance
24 with chapter 54 of the general statutes, to establish the criteria and
25 procedures for the approval of such health behavior wellness,
26 maintenance or improvement programs.

27 Sec. 2. Section 38a-825 of the general statutes is repealed and the
28 following is substituted in lieu thereof (*Effective January 1, 2010*):

29 [No] Except as provided in section 1 of this act, no insurance
30 company doing business in this state, or attorney, producer or any
31 other person shall pay or allow, or offer to pay or allow, as inducement
32 to insurance, any rebate of premium payable on the policy, or any
33 special favor or advantage in the dividends or other benefits to accrue
34 thereon, or any valuable consideration or inducement not specified in
35 the policy of insurance. [No] Except as provided in section 1 of this act,
36 no person shall receive or accept from any company, or attorney,
37 producer or any other person, as inducement to insurance, any such
38 rebate of premium payable on the policy, or any special favor or
39 advantage in the dividends or other benefit to accrue thereon, or any
40 valuable consideration or inducement not specified in the policy of
41 insurance. No person shall be excused from testifying or from
42 producing any books, papers, contracts, agreements or documents, at
43 the trial of any other person charged with the violation of any
44 provision of this section or of section 38a-446, on the ground that such
45 testimony or evidence may tend to incriminate him, but no person
46 shall be prosecuted for any act concerning which he is compelled to so
47 testify or produce documentary or other evidence, except for perjury
48 committed in so testifying.

49 Sec. 3. Subdivision (9) of section 38a-816 of the general statutes is
50 repealed and the following is substituted in lieu thereof (*Effective*
51 *January 1, 2010*):

52 (9) Any violation of any one of sections 38a-358, 38a-446, 38a-447,
53 38a-488, 38a-825, as amended by this act, 38a-826, 38a-828 and 38a-829.
54 None of the following practices shall be considered discrimination
55 within the meaning of section 38a-446 or 38a-488 or a rebate within the
56 meaning of section 38a-825: (a) Paying bonuses to policyholders or
57 otherwise abating their premiums in whole or in part out of surplus
58 accumulated from nonparticipating insurance, provided any such
59 bonuses or abatement of premiums shall be fair and equitable to
60 policyholders and for the best interests of the company and its
61 policyholders; (b) in the case of policies issued on the industrial debit
62 plan, making allowance to policyholders who have continuously for a
63 specified period made premium payments directly to an office of the
64 insurer in an amount which fairly represents the saving in collection
65 expense; (c) readjustment of the rate of premium for a group insurance
66 policy based on loss or expense experience, or both, at the end of the
67 first or any subsequent policy year, which may be made retroactive for
68 such policy year; (d) paying a reward, making a health spending
69 account contribution, or allowing a reduction in premiums or reduced
70 medical, prescription drug or equipment copayment, coinsurance or
71 deductible, or a combination of these incentives to an insured or
72 enrollee in accordance with section 1 of this act.

73 Sec. 4. Section 38a-623 of the general statutes is repealed and the
74 following is substituted in lieu thereof (*Effective January 1, 2010*):

75 No society doing business in this state shall make or permit any
76 unfair discrimination between insured members of the same class and
77 equal expectation of life in the premiums charged for certificates of
78 insurance, in the dividends or other benefits payable thereon or in any
79 other of the terms and conditions of the contracts it makes. [No] Except
80 as provided in section 1 of this act, no society, by itself, or any other
81 party, and no agent or solicitor, personally, or by any other party, shall

82 offer, promise, allow, give, set off or pay, directly or indirectly, any
83 valuable consideration or inducement to or for insurance, on any risk
84 authorized to be taken by such society [, which] that is not specified in
85 the certificate. [No] Except as provided in section 1 of this act, no
86 member shall receive or accept, directly or indirectly, any rebate of
87 premium, or part thereof, or agent's or solicitor's commission thereon,
88 payable on any certificate or receive or accept any favor or advantage
89 or share in the dividends or other benefits to accrue on, or any
90 valuable consideration or inducement not specified in, the contract of
91 insurance.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2010</i>	New section
Sec. 2	<i>January 1, 2010</i>	38a-825
Sec. 3	<i>January 1, 2010</i>	38a-816(9)
Sec. 4	<i>January 1, 2010</i>	38a-623

Statement of Legislative Commissioners:

In line 25, "procedures for the approval" was substituted for "procedures of approval" for clarity.

INS *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Revenue Serv., Dept.	GF - Revenue Loss	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Various Municipalities	STATE MANDATE - Cost	Potential Minimal	Potential Minimal

Explanation

Requiring insurers to establish incentives for utilization of wellness programs will result in a General Fund revenue loss to the insurance premiums tax to the degree that insurers choose to provide a premium reduction to participating individuals. The revenue loss cannot be determined because it is not known to what extent insurers will offer this incentive as part of their plan.

This mandate is not anticipated to impact the state employee and retiree health plan. The state health plan currently offers wellness programs as value-added services such as membership discounts for gyms or weight loss programs. The Office of the State Comptroller has stated that there would be no increased premium cost for negotiating a reward program. This is attributed to the fact that the bill does not require the adoption of a particular incentive program. Additionally, studies indicate that wellness programs consistently result in reductions in health care costs and employee absenteeism, and therefore are typically worthwhile for both the provider and subscriber.

The mandate's provisions may minimally increase premium costs to certain fully insured municipal plans which do not currently offer a wellness program, or associated reward system when municipalities enter into new health insurance contracts after January 1, 2010. Any additional cost would likely be minimized, as the bill gives municipalities flexibility in designing a program by not requiring a specific incentive. In addition, wellness programs are typically worthwhile for both the provider and subscriber as studies indicate consistent reductions in health care costs and employee absenteeism. Due to federal law, municipalities with self-insured health plans are exempt from state health insurance benefit mandates.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Office of the State Comptroller, Wellness Council of America, Municipal Employees Health Insurance Plan (MEHIP) Schedule of Benefits, State Employee Health Plan Subscriber Agreement.

OLR Bill Analysis**sSB 962*****AN ACT CONCERNING WELLNESS INCENTIVES.*****SUMMARY:**

This bill requires an insurer or other entity writing group health insurance in Connecticut to offer a “reasonably designed” health behavior wellness, maintenance, or improvement program that gives participants one or more of the following: a reward; health spending account contribution; premium reduction; or reduced copayment, coinsurance, or deductible. It prohibits the value of any reward or incentive from exceeding 20% of “paid premiums” and requires them to comply with federal non-discrimination requirements (see BACKGROUND).

The bill requires the insurance commissioner, in consultation with the public health commissioner, to adopt regulations to establish criteria for such programs and procedures for approving them. It requires an insured person or plan enrollee to give the insurer or entity proof of program participation in a manner the insurance commissioner approves.

The bill exempts a reward or incentive allowed under its provisions from the laws prohibiting rebates. It also makes technical and conforming changes.

EFFECTIVE DATE: January 1, 2010

APPLICABILITY OF BILL

The bill applies to each insurer, HMO, hospital or medical service corporation, fraternal benefit society, or other entity that delivers, issues, renews, amends, or continues in Connecticut a group health insurance policy that covers (1) basic hospital expenses; (2) basic

medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services.

Due to federal law (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

BACKGROUND

Federal Rule for Wellness Programs

HIPAA prohibits discrimination based on health status. Related U.S. Department of Labor (DOL) rules prohibit a wellness program from offering participants a reward if a person has to attain some health status in order to receive it. A program can encourage healthy habits through an incentive, such as program cost reimbursement, but reimbursement cannot be conditioned on a person actually changing his or her habits.

According to DOL, an employer's wellness program complies with federal nondiscrimination requirements if it is open to all similarly situated individuals and, if a reward is offered, it is not conditioned on a person satisfying a health factor-related standard, unless the program meets the following five requirements:

1. a premium discount that does not exceed 20% of the total cost of employee-only coverage (or 20% of the cost of coverage if dependents can participate in the program);
2. the program is reasonably designed to promote health and prevent disease;
3. people eligible for the program have an opportunity to qualify for the reward at least once a year;
4. the program, to accommodate people for whom it is unreasonably difficult to quit using tobacco products because of an addiction, provides a reasonable alternative standard (such as a discount if the person attends educational classes or tries a nicotine patch); and

5. plan material describing a premium discount also describes the reasonable alternative standard available to qualify for the lower premium.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 14 Nay 4 (03/05/2009)